

1 The Cenci Family Trust (Trust)

Case No. 10CEPR00244

Atty Erlach, Mara M. (for Terese Ann Cenci McGee, daughter – Petitioner)

Atty Sanoian, Joanne (for Richard Cenci, son – Objector)

Atty Sullivan, Robert (for Bruce Bickel; Mr. Bickel was dismissed from the Trust action on 1/19/12)

Petition for Interpretation of Holographic Instruments [Prob. C. §17200(b)(1)]

DOD: 8/31/11

TERESE ANN CENCI MCGEE, daughter and first named executor without bond, is Petitioner.

Petitioner seeks a ruling from the Court that three holographic instruments are codicils to the 12/6/07 Will of Decedent Esther Cenci (“Will”).

Petitioner states:

1. Esther C. Cenci (“Decedent”) executed the Will, which provided for specific bequests and poured the residue of her estate over into the Survivor’s Trust;
2. Recently, it was discovered that Decedent executed at least 3 holographic instruments in 2010 which could be testamentary in nature;
3. These holographic documents are dated 8/20/10, 8/26/10, and 9/6/10, and all have been lodged with the Court.
4. Petitioner believes these documents are codicils to the Will, but requests clarification from this Court as to the effect of the holographic instruments.

Objection of Richard Cenci, filed 12/6/11, states:

A. The interpretation of holographic instruments is moot because the probate proceeding is no longer necessary. Specifically:

- There are currently no estate assets, as Decedent transferred the 1932 Packard automobile to the Survivor’s Trust prior to her death.
- The Trustee of the Survivor’s Trust (Bruce Bickel) has told the Court and Objector’s attorney that he considers the furniture and furnishings (of Decedent’s residence) to be assets of the Survivor’s Trust; as such, there is nothing to probate under the Will.
- Furthermore, when previously a personal representative of Decedent’s estate was necessary because Decedent was named as a respondent in related litigation involving the Family Trust, Decedent was ultimately dismissed due to her death and therefore a probate proceeding is no longer necessary.

SEE ATTACHED PAGE

NEEDS/PROBLEMS/COMMENTS:

Continued by Judge Smith from 1/23/12.

Note: This same Petition has been filed in the Estate proceeding (11CEPR00907); see pages 4A-C.

1. Need Order.

Note: This matter was assigned a trial date of 1/10/12 on Richard Cenci’s First Amended Petition to Remove Trustee, Compel an Accounting, for Appointment of Successor Trustee, for Breach of Fiduciary Duty, for Financial Abuse of Elder, Undue Influence, Fraud, and for Restitution, Imposition of Constructive Trust, for Double Damages, Punitive Damages, for Attorney Fees and Costs, for Order Compelling Transfer of Assets and Monies Due on Promissory Notes, filed 5/23/11. The matter is currently in Department 502 with Judge Black. Per Judge Smith’s Minute Order of 1/23/12, once Dept. 502 receives the parties’ Trial Briefs (due by 3/16/12) Judge Black will be taking the matter under submission.

Reviewed by: NRN

Reviewed on: 3/21/12

Updates:

Recommendation:

File 1 - Cenci

CONT'D:

B. The holographic instruments are not codicils to the Will. Specifically:

- The 8/20/10 and 8/26/10 documents appear to be letters to Decedent's attorney with no real intent specifically shown to make the letters "codicils" to the Will.
- The only dispositive provisions concern the distribution of the Packard automobile and household furniture, which are assets no part of the estate.
- There are no nominations in the documents, and the majority of their contents concern Decedent's Survivor's Trust and family issues.
- The 9/6/10 document has no dispositive provisions, nor does it nominate any personal representatives, and there is nothing in the document indicating it is a "codicil," but merely a letter of no consequence addressed to Decedent's attorney.
- Even if the Court were to find that the 8/20/10 and 8/26/10 documents were somehow meant to be "codicils," there are no assets to distribute, such that any interpretation would be fruitless.

C. The holographic instruments cannot change the terms of the Survivor's Trust:

- If the creating instrument requires a specific reference to the power, the power may be exercised only by such specific reference to the power. *Estate of Muriel Eddy* (1982) Cal. App. 3d 292.
- PrC §632 states that if the creating instrument expressly directs that a power of appointment be exercised by an instrument that makes specific reference to the power or instrument that created the power, the power can be exercised only by an instrument containing the required reference.
- Here, the Survivor's Trust specifically requires that that the instrument, in this case, the holographic documents, has to refer to the power of appointment in those documents, which they do not.
- The Cenci Family Trust specifically states that under the terms of the Survivor's Trust, on surviving settlor's death, the trustee shall distribute the remainder of the survivor's trust... to such one or more persons or entities..on such terms or conditions..as the surviving settlor shall appoint by a valid instrument or lifetime document that was executed after deceased settlor's death and specifically refers to this power of appointment. (Article Seventh, Section 7 of the Trust)
- Unlike the 3 handwritten documents at issue here, Decedent's Will confirms this absolute requirement as it references Article Seventh, Section 7 of the Family Trust and specifically states that she (Decedent) is exercising her power of appointment.

D. The holographic instruments do not meet the requirements of Codicil:

- Objecter incorporates the Objection to the Petition for Probate of Will and Letters Testamentary filed by Objecter on 10/14/11 (*Case No. 11CEPR00907*).
- The holographic instruments do not meet the statutory requirements of codicils under applicable probate code sections, as they are the product of fraud, or undue influence, or duress.
- There is a trial in this case scheduled for 1/10/12. The issues herein may be moot after the trial.

Objector prays for an Order that 1) the three handwritten documents are not codicils and 2) that the three handwritten documents do not affect the dispositive provisions of the Survivor's Trust.

Age: 9 years DOB: 6/22/2002		MELISSA RUSSELL , guardian, is petitioner. Account period: 9/30/10 – 9/30/11 Accounting - \$70,563.79 Beginning POH - \$0 Ending POH - \$70,151.29 Attorney - not addressed Guardian - not addressed Petitioner prays: 1. The first account and report be approved and settled; 2. The acts of the guardian shown in the accounting and report be approved.	NEEDS/PROBLEMS/COMMENTS: <i>Continued from 2/27/12. As of 3/15/12 the following issues remain:</i> 1. Need <i>Notice of Hearing</i> . 2. Pursuant to Probate Code 2621 and §1460 need proof of service of the <i>Notice of Hearing</i> on: a. Rebecca Lee Ann Dell Pitkin (minor) 3. Need Order	
Cont. from 112811 121211, 022712				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			X
	Aff.Mail			X
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
		Reviewed by: KT		
		Reviewed on: 3/15/12		
		Updates:		
		Recommendation:		
		File 2 - Pitkin		

Age: 6 years DOB: 10/17/05	MELISSA RUSSELL , guardian, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
	Account period: 9/30/10 – 9/30/11	Continued from 2/27/12. As of 3/15/12 the following issues remain:
Cont. from 112811 121211, 022712	Accounting - \$70,563.79	4. Need Notice of Hearing.
Aff.Sub.Wit.	Beginning POH - \$0	
✓ Verified	Ending POH - \$70,151.29	5. Pursuant to Probate Code §2621 and §1460 need proof of service of the Notice of Hearing on: b. Eva Jane Carolyn Pitkin (minor)
Inventory	Attorney - not addressed	
PTC	Guardian - not addressed	6. Need Order
Not.Cred.		
Notice of Hrg X	Petitioner prays:	
Aff.Mail X	3. The first account and report be approved and settled;	
Aff.Pub.	4. The acts of the guardian shown in the accounting and report be approved.	
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
✓ 2620(c)		
Order X		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		

Reviewed by: KT
Reviewed on: 3/15/12
Updates:
Recommendation:
File 3 – Pitkin

Atty Erlach, Mara M. (for Terese Ann Cenci McGee, daughter – Objector/Competing Petitioner)

Atty Sanoian, Joanne (for Richard Cenci, son – Petitioner)

Atty Sullivan, Robert (for Bruce Bickel, Objector)

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 8/31/11		
Cont. from 111411, 012312		
	Aff.Sub.Wit.	s/p
✓	Verified	
	Inventory	
	PTC	
	Not.Cred.	
✓	Notice of Hrg	
✓	Aff.Mail	w
✓	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
✓	Letters	
✓	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
✓	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	

<p>RICHARD G. CENCI, son and named second alternate executor without bond, is Petitioner. Petitioner declines to act as Executor and nominates JONALYN CENCI (daughter of Decedent), who consents to said appointment. (<i>Note: Jonalyn Cenci is the named third alternat</i>e executor; Terese McGee (competing Petitioner) is the first named executor.)</p> <p>Will dated – 12/6/07</p> <p>Full IAEA – o.k.</p> <p>Residence – Fresno</p> <p>Publication- Fresno Business Journal</p> <p><u>Estimated value of estate</u></p> <table><tr><td>Personal property</td><td>\$167,000.00</td></tr><tr><td>Annual income</td><td>.0</td></tr><tr><td>Real property</td><td>.0</td></tr><tr><td>TOTAL</td><td>\$167,000.00</td></tr></table> <p><u>PROBATE REFEREE: RICK SMITH</u></p> <p><u>SEE ATTACHED PAGE</u></p>	Personal property	\$167,000.00	Annual income	.0	Real property	.0	TOTAL	\$167,000.00	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 1/23/12.</u></p> <p>NOTE: Page 4B is Objector Terese Cenci McGee’s competing <i>Petition for Probate</i>, which requests that requests the Court issue a ruling that the three holographic instruments are codicils to Esther Cenci’s Will.</p> <p><u>Note: The related Trust matter was assigned a trial date of 1/10/12 on Richard Cenci’s First Amended Petition to Remove Trustee, Compel an Accounting, for Appointment of Successor Trustee, for Breach of Fiduciary Duty, for Financial Abuse of Elder, Undue Influence, Fraud, and for Restitution, Imposition of Constructive Trust, for Double Damages, Punitive Damages, for Attorney Fees and Costs, for Order Compelling Transfer of Assets and Monies Due on Promissory Notes, filed 5/23/11. The matter is currently in Department 502 with Judge Black. Per Judge Smith’s Minute Order of 1/23/12, once Dept. 502 receives the parties’ Trial Briefs (due by 3/16/12) Judge Black will be taking the matter under submission.</u></p> <p>Reviewed by: NRN</p> <p>Reviewed on: 3/21/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 4A - Cenci</p>
Personal property	\$167,000.00								
Annual income	.0								
Real property	.0								
TOTAL	\$167,000.00								

Objection of Trustee Bruce Bickel, filed 11/7/11, states:

- Bickel is Trustee of the Survivor's Trust; in her Will, Decedent gave all of her estate and property to the Trustee of the Survivor's Trust;
- Trustee does not take position with the appointment of Terese McGee;
- However, Bickel objects to the appointment of Jonalyn because she is incapable of competently administering the estate because of her displayed hostility toward Decedent, the estate, the Survivor's Trust and the assets of the Survivor's Trust;
- Specifically, Jonalyn has repeatedly attempted to hinder Trustee Bickel's attempts to market and sell Decedent's real property (*see Declaration of Bob Wiginton, Realtor, and Supp Decl. of Atty Sullivan in in Support of Motion to Expunge, attached to Objection as Exhs A and B respectively*);
- Also, Jonalyn has demonstrated a personal and unwarranted animosity towards the Trustee, and has attacked his actions, integrity and morals – demonstrating that her emotions are driving her actions (*see Supp Decl. of Atty Sullivan, Exh. B*);
- Further, Decedent gave instruction to remove Jonalyn from the Survivor's Trust and Will (in Decedent's 8/20/10 Codicil) and did not want to be visited by Jonalyn (Decedent's 9/6/10 Codicil);
- Jonalyn's actions have hindered efforts to preserve the estate and her appointment as Executor would likely do severe and irreparable damage to the estate;
- If the Court determines that neither Jonalyn nor Terese are competent to act as Executor, Trustee Bickel should be appointed as Administrator with Will Annexed;
- As Jonalyn's activities with respect to Decedent's estate would warrant her removal as executor if appointed under PrC §8502, she is incompetent to be appointed under PrC §8402;
- Finally, PrC §8441(b) gives a trustee priority for appointment as personal representative, as someone who take more than 50% of the estate; here, as Trustee of the Survivor's Trust, Trustee Bickel take virtually all of the Estate.

Objector Bickel requests that the Court:

1. Deny Richard Cenci's Petition for Jonalyn's appointment;
2. If appropriate, appoint Trustee Bickel as the personal representative;
3. Award Bickel his costs in this proceeding.

Response of Richard G. Cenci to Objection of Bruce Bickel, filed 11/9/11, states:

- Bickel ineffectively argues that Jonalyn is incompetent to act under PrC §§8402(a)(3) and 8502(b),(d) simply because she disagrees with how Bickel is administering the Survivor's Trust;
- As a beneficiary of the Trust, Bickel owes Jonalyn a fiduciary duty to handle and manage the Survivor's Trust assets in a prudent and reasonable manner, and has the right to question and object to his actions as Trustee;
- Bickel has never spoken to Jonalyn about any need to sell the real property, nor has he ever sought Jonalyn's input into the necessity of that sale, or reasonable alternatives to the sale;
- Petitioner Cenci and Jonalyn are adamantly opposed to the sale, which was communicated to Bickel;
- Attached to Petitioner's Response are two letters (*Exhs. A and B*) from Attorney Sullivan to Petitioner's attorney, threatening legal action against Jonalyn for advising potential "buyers" of the residence that the house was the subject of litigation and that a lis pendens had been filed;
- Petitioner's attorney does not represent Jonalyn and does not know why the letters were sent to her, but the letters are alarming (*see attached letters*);
- Jonalyn has never touched or taken any "hostile position" against Decedent's car or household furniture or furnishings, which are the only assets of the estate probate, and has taken no action that disqualifies her from acting as the personal representative;
- Furthermore, Bickel should not be appointed as administrator, because he will not ensure the Decedent's estate is protected; he has committed harm to the estate by driving the 1931 Packard without authority and without adequate insurance coverage to an appraiser and after which the car broke down and had to be towed to a repair shop (*See correspondence between Attys Sanoian and Sullivan regarding these incidents, attached as Exhs. C-E*);

▪ **SEE ATTACHED PAGE**

- Bickel takes no stance on Terese's appointment as executor and does not object to Terese's proposed admission of three handwritten documents she purports to be Codicils; Terese is attempting to admit these document as codicils in an attempt to change the distribution of Decedent's estate so that only she and Herman Jr. inherit under the Survivor's Trust; therefore, Bickel would not qualify for appointment under PrC§8441(b), as the Survivor's Trust would receive nothing;
- Bickel gives no reason for the sale of the real property; and allowed over \$30,000.00 to be spent by Terese over a 9-month period, after she was removed as trustee of the Survivor's Trust – which resulted in no money for Decedent's care at one point; Bickel's actions were not in the sole interest of Decedent during her life, and are not now in the interest of Petitioner nor Jonalyn as beneficiaries of the Survivor's Trust;
- Bickel has allowed Terese to live rent-free in the real property, drive the Packard around town, and spend over \$30,000.00 of Trust assets, and does not object to Terese's Petition for Probate; Bickel is clearly not acting impartially toward all four Trust beneficiaries as required by PrC §16003 (*if a trust has 2 or more beneficiaries, trustee has duty to deal impartially with them and to act impartially in investing and managing the trust property*);
- Bickel has also continued to allow the Trust real property to remain unproductive by not receiving rent on it, in violation of PrC §16607 (*a trustee has a duty to make the trust property productive under the circumstances and in furtherance of the trust*)

Petitioner requests the Court order:

1. That Jonalyn Cenci be appointed as Executor;
2. That Bickel's petition for appointment as administrator be denied in its entirety.

Objection of Terese McGee to Petition for Richard Cenci's Petition for Probate, filed 11/9/11, states:

- Decedent's 2007 Will provides for some specific bequests and poured the residue of the estate into the Survivor's Trust;
- As the nominated executor in the Will, Terese has therefore petitioned for appointment;
- Terese objects to Richard Cenci's Petition to appoint Jonalyn; Decedent's Will does not name Jonalyn as the first choice for executor; rather, Jonalyn is listed third, after Terese and Richard;
- Decedent had numerous opportunities to revise her estate plan since the 2007 Will; she never revised her estate plan to remove Terese as named executor, even though she made other changes as recently as Sept. 2010 (three holographic instruments executed in August and Sept. 2010 are treated as codicils and attached to Terese's Petition for Probate as well as the instant Objection, as *Exh. A*);
- Jonalyn's appointment appears to be directly contrary to Decedent's wishes; the 9/6/10 codicil declares she does not want Jonalyn (referred to by Decedent as "Joan") to visit her, does not want her at her (Decedent's) funeral, and that she wishes to disinherit Jonalyn because she and Richard want control of Decedent's affairs; in the 8/20/10 codicil, Decedent instructs that Jonalyn be removed from her Survivor's Trust and Will;
- Further, at trial on 8/5/11, Decedent testified she was "angry with Jonalyn," and also testified that she did not believe Terese should be punished for lending money to Herman Jr. (*pertinent trial transcript pages attached to Objection as Exh. B*);
- Jonalyn is incompetent to be Decedent's personal representative, as she has demonstrated behavior showing she does not have the estate's best interest, or its beneficiaries at heart, and has displayed a pattern of harassing and threatening behavior toward attorneys, beneficiaries, fiduciaries and their agents and also Bruce Bickel (*copies of e-mails from Jonalyn to Attorney Keeler attached as Exh. C*);
- Appointing Jonalyn would result in a conflict of interest as Richard is petitioning for Jonalyn's appointment, and he is also suing Decedent in a separate trust matter before this Court.

Objector Terese requests the Court:

1. Deny Richard's Petition to appoint Jonalyn as Executor;
2. Appoint Terese as Executor to serve without bond as specified in Decedent's 2007 Will.

Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under the Independent Administration of Estates Act (Prob. C. 8002, 10450)

DOD: 8/31/11		TERESE ANN CENCI MCGEE , daughter and first named executor without bond, is Petitioner.		NEEDS/PROBLEMS/COMMENTS: <u>Continued from 1/23/12.</u> NOTE: Page 14A is Objector Richard Cenci's competing <i>Petition for Probate</i> . 1. Need affidavit of publication, pursuant to Probate Code 8124. 2. Need <i>Statement of Duties and Liabilities of Personal Representative</i> (Judicial Council Form DE-121), and <i>Confidential Supplement to Duties and Liabilities</i> , containing the birth date and driver's license number of the personal representative, pursuant to Probate Code 8404 and Local Rule 7.10.1. <u>Note: The related Trust matter was assigned a trial date of 1/10/12 on Richard Cenci's First Amended Petition to Remove Trustee, Compel an Accounting, for Appointment of Successor Trustee, for Breach of Fiduciary Duty, for Financial Abuse of Elder, Undue Influence, Fraud, and for Restitution, Imposition of Constructive Trust, for Double Damages, Punitive Damages, for Attorney Fees and Costs, for Order Compelling Transfer of Assets and Monies Due on Promissory Notes, filed 5/23/11. The matter is currently in Department 502 with Judge Black. Per Judge Smith's Minute Order of 1/23/12, once Dept. 502 receives the parties' Trial Briefs (due by 3/16/12) Judge Black will be taking the matter under submission.</u>
Cont. from 111411, 012312		Will dated – 12/6/07; and <u>Codicils dated 8/20/10, 8/26/10 and 9/6/10</u>		
Aff.Sub.Wit.	s / p	Full IAEA – <i>need</i> Residence – Fresno Publication- <i>need</i>		
Verified				
Inventory				
PTC				
Not.Cred.				
√ Notice of Hrg				
√ Aff.Mail	w / o	Estimated value of estate Personal property \$167,000.00 Annual income .0 Real property .0 <hr/> Total \$167,000.00		
Aff.Pub.	x	<u>PROBATE REFEREE: RICK SMITH</u>		
Sp.Ntc.				
Pers.Serv.				
Conf. Screen				
Letters	X			
Duties/Supp	X			
Objections				
Video Receipt				
CI Report				
9202				
√ Order		Objection of Richard G. Cenci to Petition, filed 10/14/11, states: <ul style="list-style-type: none"> Petitioner McGee is not competent to act as Executor pursuant to PrC 8402(a)(3) because she is currently a defendant in an action for breach of fiduciary duty and for financial abuse of an elder, regarding the same subject matter at issue here (<i>see Fresno Superior Court Case No. 10CEPR00244</i>); During her 7/13/10 deposition, Petitioner McGee testified to the following (<i>pertinent portions of deposition attached to Objection</i>): As trustee of Decedent's Survivor's Trust, Petitioner took out margin loans of \$321,000.00 from a Bypass Trust without Decedent's knowledge and without authority to use the Bypass funds; 		
Aff. Posting				
Status Rpt				
UCCJEA				
Citation				
FTB Notice				

SEE ATTACHED PAGE**Reviewed by:** NRN**Reviewed on:** 3/21/12**Updates:****Recommendation:****File 4B – Cenci**

- Petitioner gave an unknown amount of Decedent's money to Petitioner's brother, Herman Cenci, that giving large sums of money to Herman was not prudent, and that neither Richard Cenci nor Jonalyn Cenci has ever misappropriated Decedent's money;
- Petitioner handled the sale of real property on Adoline Ave (belonging to Bypass Trust), yet does not know where the sale proceeds went; nor did she know which funds were left in a Charles Schwab account upon which she was writing checks and loaning out money to Herman Cenci;
 - Petitioner admitted to breaching her trustee duties, and her own admissions show she is not competent and is unfit to act as personal representative of Decedent's estate;
- The 3 handwritten codicils Petitioner seeks to admit do not meet the statutory requirements of codicils as they are the product of fraud or undue influence, or duress.
- **Objector requests Petitioner be denied Letters Testamentary and that the codicils not be admitted to probate.**

Supplemental Objection of Richard G. Cenci, filed 11/9/11, states:

- Terese is not competent or qualified to act as executor because she has ignored previous court orders and has mislead the court in her filed income and expense declaration in Fresno Superior Court Case No. 617025-2 : per Supplemental Declaration in Support of Respondent's Application to Terminate Spousal Support, filed by Steven McGee on 4/27/07, Terese ignored 2 previous court orders that she become self-supporting and did not accurately report her assets or receipt of funds in addition to spousal and child support ; the Declaration speaks to Terese's lack of veracity and her history of disrespecting court proceedings(*a Request for Judicial Notice of McGee's Declaration was filed in this case on 11/7/11*);
- Also, on 8/16/10, this Court, in the related Trust litigation matter (Case No. 10CEPR000244), ordered Terese to provide a forensic accounting of both Trusts to Esther Cenci's counsel; Terese never provided the forensic accounting;
- Furthermore, the 3 handwritten codicils should not be admitted to probate because the disposition provisions of the 3 documents lack specific language referencing power of appointment as required by the Cenci Family Trust of 1992 – which specifically states that under the terms of the Survivor's Trust, “on the death of the surviving settlor, the trustee shall distribute the remainder, if any, of the Survivor's Trust to such one or more persons or entities...on such terms or conditions..as the surviving settlor shall appoint by a valid instrument or lifetime document that was executed after the Deceased Settlor's death and specifically refers to this power of appointment.” Decedent's 2007 Will confirms this requirement and states she (Decedent) is exercising her power of appointment.
- Because the 3 codicils do not in any way reference Decedent's power of appointment, they cannot be admitted to change the 2007 Will's disposition provisions.

Objector Richard Cenci requests the Court:

1. Deny Terese's Petition for Letters Testamentary; and
2. Not admit the 3 codicils to probate.

Atty Erlach, Mara M. (for Terese Ann Cenci McGee, daughter – Petitioner)

Atty Sanoian, Joanne (for Richard Cenci, son – Objector)

Atty Sullivan, Robert (for Bruce Bickel)

Petition for Interpretation of Holographic Instruments [Prob. C. §17200(b)(1)]

DOD: 8/31/11		TERESE ANN CENCI MCGEE , daughter and first named executor without bond, is Petitioner.		NEEDS/PROBLEMS/COMMENTS: <u>Continued from 1/23/12.</u>	
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	Citation				
	FTB Notice				

Petitioner seeks a ruling from the Court that three holographic instruments are codicils to the <u>12/6/07 Will of Decedent Esther Cenci ("Will")</u> .	Note: This same Petition has been filed in the related Trust proceeding (10CEPR00244) – see Page 1.
Petitioner states:	Note: The related Trust matter was assigned a trial date of 1/10/12 on <u>Richard Cenci's First Amended Petition to Remove Trustee, Compel an Accounting, for Appointment of Successor Trustee, for Breach of Fiduciary Duty, for Financial Abuse of Elder, Undue Influence, Fraud, and for Restitution, Imposition of Constructive Trust, for Double Damages, Punitive Damages, for Attorney Fees and Costs, for Order Compelling Transfer of Assets and Monies Due on Promissory Notes, filed 5/23/11. The matter is currently in Department 502 with Judge Black. Per Judge Smith's Minute Order of 1/23/12, once Dept. 502 receives the parties' Trial Briefs (due by 3/16/12) Judge Black will be taking the matter under submission.</u>
5. Esther C. Cenci ("Decedent") executed the Will, which provided for specific bequests and poured the residue of her estate over into the Survivor's Trust;	
6. Recently, it was discovered that Decedent executed at least 3 holographic instruments in 2010 which could be testamentary in nature;	
7. These holographic documents are dated 8/20/10, 8/26/10, and 9/6/10, and all have been lodged with the Court.	
8. Petitioner believes these documents are codicils to the Will, but requests clarification from this Court as to the effect of the holographic instruments.	
Objection of Richard Cenci , filed 12/6/11, states: A. The interpretation of holographic instruments is moot because the probate proceeding is no longer necessary. Specifically: <ul style="list-style-type: none"> There are currently no estate assets, as Decedent transferred the 1932 Packard automobile to the Survivor's Trust prior to her death. The Trustee of the Survivor's Trust (Bruce Bickel) has told the Court and Objector's attorney that he considers the furniture and furnishings (of Decedent's residence) to be assets of the Survivor's Trust; as such, there is nothing to probate under the Will. Furthermore, when previously a personal representative of Decedent's estate was necessary because Decedent was named as a respondent in related litigation involving the Family Trust, Decedent was ultimately dismissed due to her death and therefore a probate proceeding is no longer necessary. 	
<u>SEE ATTACHED PAGE</u>	
	1. Need Order.
	Reviewed by: NRN
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	File 4C - Cenci

CONT'D:

B. The holographic instruments are not codicils to the Will. Specifically:

- The 8/20/10 and 8/26/10 documents appear to be letters to Decedent's attorney with no real intent specifically shown to make the letters "codicils" to the Will.
- The only dispositive provisions concern the distribution of the Packard automobile and household furniture, which are assets no part of the estate.
- There are no nominations in the documents, and the majority of their contents concern Decedent's Survivor's Trust and family issues.
- The 9/6/10 document has no dispositive provisions, nor does it nominate any personal representatives, and there is nothing in the document indicating it is a "codicil," but merely a letter of no consequence addressed to Decedent's attorney.
- Even if the Court were to find that the 8/20/10 and 8/26/10 documents were somehow meant to be "codicils," there are no assets to distribute, such that any interpretation would be fruitless.

C. The holographic instruments cannot change the terms of the Survivor's Trust:

- If the creating instrument requires a specific reference to the power, the power may be exercised only by such specific reference to the power. *Estate of Muriel Eddy* (1982) Cal. App. 3d 292.
- PrC §632 states that if the creating instrument expressly directs that a power of appointment be exercised by an instrument that makes specific reference to the power or instrument that created the power, the power can be exercised only by an instrument containing the required reference.
- Here, the Survivor's Trust specifically requires that that the instrument, in this case, the holographic documents, has to refer to the power of appointment in those documents, which they do not.
- The Cenci Family Trust specifically states that under the terms of the Survivor's Trust, on surviving settlor's death, the trustee shall distribute the remainder of the survivor's trust... to such one or more persons or entities..on such terms or conditions..as the surviving settlor shall appoint by a valid instrument or lifetime document that was executed after deceased settlor's death and specifically refers to this power of appointment. (Article Seventh, Section 7 of the Trust)
- Unlike the 3 handwritten documents at issue here, Decedent's Will confirms this absolute requirement as it references Article Seventh, Section 7 of the Family Trust and specifically states that she (Decedent) is exercising her power of appointment.

D. The holographic instruments do not meet the requirements of Codicil:

- Objecter incorporates the Objection to the Petition for Probate of Will and Letters Testamentary filed by Objecter on 10/14/11.
- The holographic instruments do not meet the statutory requirements of codicils under applicable probate code sections, as they are the product of fraud, or undue influence, or duress.
- There is a trial in this case scheduled for 1/10/12. The issues herein may be moot after the trial.

Objector prays for an Order that 1) the three handwritten documents are not codicils and 2) that the three handwritten documents do not affect the dispositive provisions of the Survivor's Trust.

Atty Clark, Rory W. (for Wells Fargo Bank, N.A. – Administrator – Petitioner)

(1) Petition for Termination of Further Proceedings and (2) Discharge of Personal Representative (Prob. C. 12251)

DOD: 2-6-11		<p>WELLS FARGO BANK, N.A., Administrator with Limited IAEA without bond, is Petitioner.</p> <p>I&A - \$275,000.00 (real property only) POH – \$0</p> <p>Petitioner states the only asset of the estate was certain real property that was foreclosed upon and purchased by CVI Group, LLC on 1-3-12.</p> <p>Petitioner has diligently searched for all assets of the decedent but has failed to discover any other property of any kind belonging to the estate that is subject to administration.</p> <p>Therefore, Petitioner requests the estate be terminated and Petitioner discharged pursuant to Probate Code §12251(a).</p>	NEEDS/PROBLEMS/COMMENTS:	
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			12-12-11
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			
		Reviewed by: skc		
		Reviewed on: 3-16-12		
		Updates:		
		Recommendation: SUBMITTED		
		File 5 - McCauley		

Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)

DOD: 12/11/2011			FRANK E. GILSTRAP II , named alternate executor without bond is petitioner. Named executor, Debra S. Paul declines to act. Full IAEA – o.k. Will dated: 11/16/1997 Residence: Clovis Publication: Fresno Business Journal <u>Estimated value of the estate:</u> Personal property - \$176,000.00 Annual income - \$ 1,200.00 Probate Referee: RICK SMITH	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> Proposed personal representative is a resident of Texas. Probate Code §8571 states notwithstanding a waiver of bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court.
Cont. from				
	Aff.Sub.Wit.	S/P		
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
✓	Aff.Mail	W/		
✓	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 3/15/12
Updates:
Recommendation:
File 6 - Gilstrap

Petition to Determine Succession to Real Property (Prob. C. 13151)

DOD: 4/23/11		<p>Robert R. Peterson, Trustee of the Robert R. Peterson and Correen B. Peterson Revocable Living Trust Agreement dated 4/20/1993, is petitioner.</p> <p>40 days since DOD.</p> <p>No other proceedings.</p> <p>Will dated: April 20, 1993 – devises the residue of the estate to the Robert R. Peterson and Correen B. Peterson Revocable Living Trust Agreement dated 4/20/1993.</p> <p>Petitioner requests court determination that Decedent's 50% interest in two parcels of real property located in Fresno County pass to the Robert R. Peterson and Correen B. Peterson Revocable Living Trust Agreement dated 4/20/1993, pursuant to Decedent's Will.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <ol style="list-style-type: none"> The copy of the Will attached to the petition is not signed by the decedent. Even though the Will is not technically probated, if the decedent left a Will, a court order determining the right to succeed to the property necessarily includes a determination as to the validity of the Will even if the Will is not technically probated. Therefore, the court may require that a copy of the Will signed by the decedent be filed. Inventory and appraisal is incomplete at: <ul style="list-style-type: none"> #3. It does not indicate if this is all or a portion of the estate that has come into the petitioners knowledge or possession. #5 property tax certificate And was not signed and dated by the Petitioner in the declaration portion of the form. Need Order 	
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W/
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			X
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
		<p>Reviewed by: KT</p> <p>Reviewed on: 3/15/12</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 7 - Peterson</p>		

Status of Sale Confirmation

DOD: 1-26-04		ANTONETTE FREGOSO, Daughter, was appointed Administrator with full IAEA without bond and Letters issued on 6-15-04 .		NEEDS/PROBLEMS/COMMENTS:	
Cont. from 090210, 110410, 111010, 011911, 031611, 050411, 070611, 083111, 110211, 012512		Final Inventory and Appraisal filed 8-13-04 reflects a total estate value of \$264,250.00 as of the date of death (1-26-04), which included a small amount of cash from the register of a restaurant (Decedent's one-half interest in the business), a vehicle, personal property (furniture and furnishings), a residence valued at \$145,000.00, and an undivided one-half interest in a business and real property valued at \$112,500.00.		Minute Order 1-19-11: Counsel advises the court that they are waiting for financing and the sale to close. Hearing was set on 3-16-11 for status of sale confirmation.	
Aff.Sub.Wit.		Inventory and Appraisal ("Reappraisal Final Dist") filed 1-3-11 reflects revised values for the real properties as follows: residence \$90,000.00; undivided one-half interest in business and real property \$70,000.00 (total: \$160,000.00).		Minute Order 3-16-11: Counsel advises the Court that an offer was finally received. Counsel requests a continuance.	
Verified		Minute Order 11-10-10 (Status hearing re Failure to File a First Account or Petition for Final Distribution): Atty LeVan represents to the court that EDD has a claim against the estate, that the estate is now insolvent, and that Steven Diebert has destroyed his files related to this matter. Ms. LeVan is waiting for the new Inventory and Appraisal to send to EDD to see if they will drop their claim or choose to foreclose. The court orders Ms. LeVan to file a written status report by 1-12-11 regarding these representations and further orders her to communicate with Don McKinney of EDD and advise him that the court wants to know their position for the 1-12-10 report. Matter continued to 1-19-11.		Minute Order 5-4-11: Counsel advises the Court that they are making progress, but will need a continuance.	
Inventory		Minute Order 1-19-11 (Status hearing re Failure to File a First Account or Petition for Final Distribution): Counsel advises the court that they are waiting for financing and the sale to close. Matter set for Status of Sale Confirmation on 3-16-11.		Minute Order 7-6-11: Counsel advises the Court that progress is being made and the EDD matter should be resolved very soon.	
PTC		Minute Order 3-16-11: Counsel advises the Court that an offer was finally received. Counsel requests a continuance.		Minute Order 8-31-11: Counsel advises the Court that papers are being signed today and escrow will be closing in 10 days. Matter continued to 11-2-11.	
Not.Cred.		Status Report filed 8-26-11 states the property will be sold for \$125,000.00 as soon as a release is received from the Labor Dept.		Minute Order 11-2-11: Ms. LeVan informs the Court that she received a fax from the title officer indicating that the appraisal was done and all documents would be signed by 11-15-11. The Court continued the matter to 1-25-12.	
Notice of Hrg		Notice of Proposed Action filed 9-22-11 attaches an estimated closing statement for the sale of one of the properties.		Minute Order 1-25-12: Counsel advises the Court that they are waiting for financing for the purchaser and the appraisal should be done next week. Counsel requests a continuance.	
Aff.Mail		Minute Order 11-2-11: Ms. LeVan informs the Court that she received a fax from the title officer indicating that the appraisal was done and all documents would be signed by 11-15-11. The Court continued the matter to 1-25-12.		As of 3-15-12, a final account has not been filed. The following issue remains from prior hearings:	
Aff.Pub.		Status Report filed 1-24-12 states the properties are in the process of being reappraised for current market value and Attorney LeVan requests a 60-day continuance. She has informed the buyer that if financing does not happen, the properties will be put back on the market.		Note: Examiner was previously unable to tell from the prior status report which property was in negotiations. The Status report filed 1-11-11 stated that the property value is \$160,000.00 and an offer received was \$150,000.00; however, I&A filed 1-3-11 indicates that the two properties (residence and ½ interest in business property) have a combined total value of \$160,000.00.	
Sp.Ntc.		Minute Order 1-25-12: Counsel advises the Court that they are waiting for financing for the purchaser and the appraisal should be done next week.		Status report filed 8-26-11 and Notice of Proposed Action filed 9-22-11 indicate that only the ½ interest in the business property is subject to the sale.	
Pers.Serv.				The following issue remains:	
Conf. Screen				1. Need final account/petition for distribution.	
Letters				Updates:	
Duties/Supp				Contacts: Reviewed 3-15-12	
Objections				Recommendation:	
Video Receipt				Reviewed by: skc	
CI Report				File 8 - Canales	
9202					
Order					
Aff. Posting					
Status Rpt	X				
UCCJEA					
Citation					
FTB Notice					

Status Hearing

Age:		NEEDS/PROBLEMS/COMMENTS:
DOD:		
Cont. from		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		Reviewed by: KT
		Reviewed on: 3/15/12
		Updates:
		Recommendation:
		File 9 - Morrow

Status Hearing Re: Receipt of Transfer

Age:			NEEDS/PROBLEMS/COMMENTS:	
DOD:				
Cont. from				
	Aff.Sub.Wit.			
	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
	Order			
	Aff. Posting			Reviewed by: KT
	Status Rpt			Reviewed on: 3/15/12
	UCCJEA	Updates:		
	Citation	Recommendation:		
	FTB Notice	File 10 - Mathias		

Atty Espinoza, Xiong (pro per Petitioner/paternal aunt)

Atty Boyajian, Thomas M (for Cynthia Moua and Terry Moua, maternal grandparents)

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Christian age: 2 years DOB: 11/18/2009		<u>Temporary Expires 3/26/12</u>	NEEDS/PROBLEMS/COMMENTS:
Jacob age: 1 year DOB: 12/6/10			
		XIONG ESPINOZA , paternal aunt, is petitioner.	This petition is as to CHRISTIAN VANG and JACOB VANG only. Guardianship of Noah Vang was previously granted to his paternal aunt and uncle, Chue Carrasco and Octavio Carrasco on 1/30/12.
		Father: YEE VANG – <i>consents and waives notice.</i>	Competing Petition for Guardianship of Christian Vang, Jacob Vang and Noah Vang has been filed by the maternal grandparents Cynthia Moua and Terry Moua and is set for hearing on 5/2/12.
Cont. from		Mother: MICHELLE MOUA – <i>consents and waives notice.</i>	Minute order from the hearing on the temporary petition states Mr. Boyajian's clients, Cynthia Moua and Terry Moua are objecting to the guardianship. The court ordered all children to have visitation with the maternal grandparents [the Mouas] on the 1 st , 3 rd , and 5 th weekend of the month starting on Friday at 6 p.m. to Sunday at 5 p.m. Transportation to be provided by the maternal grandparents. – <u>Note:</u> No written objections have been filed to this petition however the Mouas have filed a competing petition that is set for 5/2/12.
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Paternal grandfather: VaCha Vang – <i>deceased.</i> Paternal grandmother: Neng Lee – <i>consents and waives notice.</i>	
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Maternal grandfather: Terry Moua – served on 3/5/12 Maternal grandmother: Cynthia Moua – served on 3/5/12	
<input type="checkbox"/>	Not.Cred.		
<input checked="" type="checkbox"/>	Notice of Hrg	Petitioner states the children do not have a stable home and are living with petitioner. Parents have agreed and they are aware the guardianship is in the best interest of the children.	
<input checked="" type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	Court Investigator Charlotte Bien's Report filed on 3/8/12.	
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input checked="" type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Reviewed by: KT

Reviewed on: 3/16/12

Updates:

Recommendation:

File 11 - Vang

Status Hearing Re: Receipt of Blocked Account

Age: 7	MAVIS JEAN and ALAN WILLIAM REINHARDT , Maternal Grandmother and Step-Grandfather, were appointed Co-Guardians of the Person and Estate of Jesse R. Trask on 2-9-12 with all funds ordered to be placed in a blocked account. The original petition stated Jesse's mother, who passed away in January 2011, had a life insurance policy through her employer (County of Fresno) that was estimated at between \$10,000.00 and \$20,000.00, and Petitioners have been instructed by the insurance company to place the funds into a blocked account. The Court set this status hearing for receipt of funds in blocked account.	NEEDS/PROBLEMS/COMMENTS: 1. Need receipt of funds in blocked account.
DOB: 1-16-05		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
	Reviewed by: skc Reviewed on: 3-16-12 Updates: Recommendation: File 12 - Trask	

Petition for Probate of Will and for Letters Testamentary

DOD: 10-23-11		ANNA F. WILLIAMS , Daughter and named Executor without bond, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Full IAEA – <i>Need publication</i>	<ol style="list-style-type: none"> Need Notice of Petition to Administer Estate (Form DE-121). Need proof of service of Notice of Petition to Administer Estate (Form DE-121) on all persons listed at #8 in the Petition at least 15 days prior to the hearing per Probate Code §8110: <ul style="list-style-type: none"> - Sula M. Zaninovich (daughter) - Tamara K. Turner (granddaughter) - Kori A. Davis (granddaughter) - Katy R. Williams (granddaughter) - Kathryn G. O'Neil (great-grandchild) - Connor D. O'Neio (great-grandchild) - Tyler A. Vitullo (great-grandchild) - Summit P. Pears (great-grandchild) Need affidavit of publication per Probate Code §8124. Need date of death of the decedent's predeceased spouse per Local Rule 7.1.1.D. Need Order. Need Letters.
		Will dated 4-8-03	
<input type="checkbox"/>	Aff.Sub.Wit.	Residence: Fresno	
<input checked="" type="checkbox"/>	Verified	Publication: <i>Need publication</i>	
<input type="checkbox"/>	Inventory	Estimated value of estate:	
<input type="checkbox"/>	PTC	Real property - \$240,000.00	
<input type="checkbox"/>	Not.Cred.	Probate Referee: Steven Diebert	
<input type="checkbox"/>	Notice of Hrg		
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 8		SANDRA ROSARIO MOSQUEDA, Paternal Grandmother, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
DOB: 3-6-04			
		Father: CRISTIAN RAMON GONZALEZ - Consent and Waiver of Notice filed 1-26-12	1. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice on: - Fidel Robles (paternal grandfather)
		Mother: YVETTE MONICA VASQUEZ - Personally served 1-27-12	
	Aff.Sub.Wit.	Paternal Grandfather: Fidel Robles	
✓	Verified		
	Inventory	Maternal Grandfather: Michael Vasquez - Deceased	
	PTC		
	Not.Cred.	Maternal Grandmother: Caroline Quintero - Consent and Waiver of Notice filed 2-6-12	
✓	Notice of Hrg		
	Aff.Mail	Half-Siblings: Josia Vasquez and Roman Diamond Rose	
	Aff.Pub.		
	Sp.Ntc.	Petitioner states that in 2010 Cristian was missing school excessively and Petitioner picked him up and enrolled him at the school he is currently attending; however, in 2011, the mother took him and moved to Sacramento. However, in October 2011, CPS there removed this child and his siblings from the mother's care because she was abusing drugs. The siblings are residing with an aunt in Sacramento and Petitioner was given the opportunity to bring Cristian back home. The mother is scheduled to complete a drug program in March 2012 and has told Cristian that she will pick him up. Because of her long history of drug use, Petitioner does not want Cristian to return to his mother.	
✓	Pers.Serv.		
✓	Conf. Screen	Court Investigator Jo Ann Morris filed a report on 3-15-12.	
✓	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
✓	Clearances		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: skc

Reviewed on: 3-16-12

Updates:

Recommendation:

File 14 - Gonzalez

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Kodiyac, 8 DOB: 11/13/03		<u>NO TEMPORARY REQUESTED</u>	NEEDS/PROBLEMS/COMMENTS:
Aarius, 7 DOB: 12/06/04			
		CHEE VANG, maternal aunt, is Petitioner.	1. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent and Waiver of Notice <u>or</u> Declaration of Due Diligence for: - paternal grandparents (unknown)
Cont. from		Father: MIKE VANG – <i>consent & waiver of notice filed 02/06/12</i>	
	Aff.Sub.Wit.		
✓	Verified	Mother: CHAU VANG – <i>consent & waiver of notice filed 02/06/12</i>	
	Inventory		
	PTC	Paternal grandparents: UNKNOWN	
	Not.Cred.		
✓	Notice of Hrg	Maternal grandfather: LENG VANG – <i>served by mail on 02/06/12</i> Maternal grandmother: MAI XIONG – <i>served by mail on 02/06/12</i>	
✓	Aff.Mail		
	Aff.Pub.	Petitioner states that she has cared for both of the minors since birth because their mother is not stable and abuses drugs and their father is in and out of prison.	
	Sp.Ntc.		
	Pers.Serv.	n/a	
✓	Conf. Screen		
✓	Letters	Court Investigator Jennifer Young's report was filed 03/19/12.	
✓	Duties/Supp		
	Objections		
	Video Receipt		
✓	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
✓	UCCJEA		
	Citation		
	FTB Notice		
		Reviewed by: JF	
		Reviewed on: 03/16/12	
		Updates: 03/21/12	
		Recommendation:	
		File 15 - Vang	

Atty Hand, Tom (Pro Per – Non-Relative / Former Guardian – Petitioner)

Atty Hand, Valerie (Pro Per – Non-Relative / Former Guardian – Petitioner)

Atty Sevadjian, Lucille Mae (Pro Per – Non-Relative / Former Guardian – Petitioner)

Petition for Appointment of Limited Probate Conservator of the Person (Prob. C. 1820, 1821)

Age: 19		<u>TEMPORARY EXPIRES 3-26-12</u>	NEEDS/PROBLEMS/COMMENTS:
DOB: 07/13/92			
		TOM HAND, VALERIE HAND, and LUCILLE MAE SEVADJIAN , Foster family and former legal guardians, are Petitioners and request appointment as Limited Co-Conservators of the Person with Medical Consent powers; specified powers under Probate Code 2351.5 and orders limiting the civil and legal rights.	<u>Court Investigator Advised rights on 03/19/12.</u>
Cont. from		<i>Capacity Declaration of Peter Nakaguchi, M.D., filed 2/21/2012</i> supports request for medical consent powers.	1. Petitioners state Trevon has lived with them since 1998; they have been his legal guardians since 2000; his father is unknown and his mother has not had contact for approx. 10 years. If notice is not excused, need Notice of Hearing and proof of service of Notice of Hearing with a copy of the Petition at least fifteen days prior to the hearing on: - Rochelle Perry (Mother) - Unknown father
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified	Petitioners state Trevon was placed with them as a foster child on 7-29-1998 when he was six years old and has been in their home ever since. Petitioners became his legal guardians on 3-7-2000. He has had limited contact with his mother, Rochelle Perry, and she has made no contact for at least 10 years.	Note: Petitioner appears to seek a limited conservatorship based upon the fact that the proposed Conservatee is developmentally disabled; however, it appears a general conservatorship would more appropriately address the needs of this proposed Conservatee, who requires assistance with all activities of daily living and requires constant supervision. Limited conservatorships are more appropriate in circumstances in which the proposed Conservatee has a greater degree of capacity for self-care and independent living. Probate Code § 2351 provides in pertinent part that the conservator, <u>but not a limited conservator</u> , has the care, custody, and control of, and has charge of the education of, the conservatee. If Court finds a general conservatorship is more appropriate in this case, the proposed order and letters can be interlineated to grant the conservatorship appropriately.
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC	Petitioner states Trevon resides in a state licensed children's facility. The facility must re-license as an adult facility to maintain compliance with regulations. Trevon cannot remain a client in the adult home due to his health conditions. Community Care licensing requires that he become a non-client with a conservator in order to remain in the home. Petitioners state they need temporary conservatorship now to keep him in our family or the state will move him out of their home.	Reviewed by: JF
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	Order	Reviewed on: 03/16/12
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.	9202	Updates: 03/21/12
<input type="checkbox"/>	Sp.Ntc.		
<input checked="" type="checkbox"/>	Pers.Serv.	CI Report	Recommendation:
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters	FTB Notice	File 16 - Randle
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input checked="" type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input checked="" type="checkbox"/>	Citation		

Petitioner requests the Court grant the following powers and controls over the proposed limited conservatee:

1. To fix the residence or specific dwelling of the limited conservatee;
2. To have access to the confidential records and papers of the limited conservatee, including, but not limited to Regional Center documents and school records;
3. To consent or withhold consent to marriage or the entrance into a registered domestic partnership by the limited conservatee;
4. To control the right of the limited conservatee to contract;
5. To have exclusive authority to give or withhold medical treatment for the limited conservatee;
6. To control the limited conservatee's social and sexual contacts and relationships; and
7. To make all decisions on the limited conservatee's education.

The limited conservatee shall not have the power:

1. To fix the place of his/her residence or specific dwelling;
2. To have access to his/her confidential records and papers;
3. To consent or withhold consent to the marriage or the entrance into a registered domestic partnership;
4. To contract;
5. To give or withhold medical consent;
6. To control his/her own social and sexual contacts and relationships; and
7. To make decisions concerning his/her education.

Court Investigator Jennifer Daniel's report was filed 03/19/12.

**17 Charles Robert Fitzgerald aka Robert Fitzgerald aka Charles R. Fitzgerald
aka Charles Fitzgerald aka Bob Fitzgerald aka C. Robert Fitzgerald aka C. Bob
Fitzgerald (Estate)**

Atty Gin, Robert W. (for Susie Fitzgerald – spouse/Petitioner)

**Petition for Probate of Will and for Letters Testamentary; Authorization to
Administer Under IAEA (Prob. C. 8002, 10450)**

DOD: 12/04/11			SUSIE FITZGERALD, spouse/named Executor without bond, is Petitioner. Full IAEA – NEED Will dated: NEED COPY OF SIGNED WILL Residence: Fowler Publication: NEED <u>Estimated Value of the Estate:</u> Personal property - \$251,860.80 Real property - 90,000.00 Total - \$341,860.80 Probate Referee: RICK SMITH	NEEDS/PROBLEMS/COMMENTS: <u>CONTINUED TO 05/03/12</u> Per Request of Counsel 1. Copy of will attached to the Petition is not a copy of a signed will. Need copy of signed will. 2. Publication was made in The Business Journal; however, per Local Rule 7.9A – since the decedent was a resident of Fowler, CA, publication is to be made in the Fowler Ensign. Need proof of publication in the Fowler Ensign.
Cont. from				
<input type="checkbox"/>	Aff.Sub.Wit.	<input checked="" type="checkbox"/>		
<input checked="" type="checkbox"/>	Verified	<input type="checkbox"/>		
<input type="checkbox"/>	Inventory	<input type="checkbox"/>		
<input type="checkbox"/>	PTC	<input type="checkbox"/>		
<input type="checkbox"/>	Not.Cred.	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Notice of Hrg	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Aff.Mail	<input type="checkbox"/> w/		
<input type="checkbox"/>	Aff.Pub.	<input checked="" type="checkbox"/>		
<input type="checkbox"/>	Sp.Ntc.	<input type="checkbox"/>		
<input type="checkbox"/>	Pers.Serv.	<input type="checkbox"/>		
<input type="checkbox"/>	Conf. Screen	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Letters	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Duties/Supp	<input type="checkbox"/>		
<input type="checkbox"/>	Objections	<input type="checkbox"/>		
<input type="checkbox"/>	Video Receipt	<input type="checkbox"/>		
<input type="checkbox"/>	CI Report	<input type="checkbox"/>		
<input type="checkbox"/>	9202	<input type="checkbox"/>		
<input checked="" type="checkbox"/>	Order	<input type="checkbox"/>		
<input type="checkbox"/>	Aff. Posting	<input type="checkbox"/>		
<input type="checkbox"/>	Status Rpt	<input type="checkbox"/>		
<input type="checkbox"/>	UCCJEA	<input type="checkbox"/>		
<input type="checkbox"/>	Citation	<input type="checkbox"/>		
<input type="checkbox"/>	FTB Notice	<input type="checkbox"/>		
			Reviewed by: JF	
			Reviewed on: 03/16/12	
			Updates: 03/21/12	
			Recommendation:	
			File 17 - Fitzgerald	

(1) First and Final Account and Report of Administrator, (2) Petition for Attorney Fees and (3) Final Distribution

DOD: 12-13-10		MARIA R. CABRERA , Sister and Administrator with Limited IAEA with bond of \$10,000.00, is Petitioner. Accounting is waived. I&A: \$275,000.00 POH: \$14,951.35 cash plus real property in Los Angeles County) Administrator (Statutory): Waived Attorney (Statutory): \$8,500.00 Distribution pursuant to intestate succession: Graciela F. Larios (Decedent's mother): 100% of the estate	NEEDS/PROBLEMS/COMMENTS: <u>Note:</u> According to ex parte application filed 3-20-12, the real property was expected to be sold at a trustee's sale on Friday 3-23-12. Administrator requested a TRO to estop Bank of America and Recontrust Co., from selling the property. The TRO was denied on 3-21-12. If the property was sold, it cannot be distributed here and amended petition may be necessary. <u>If the real property was not sold:</u> 1. Need order pursuant to Local Rule 7.6.1. (Monetary distributions must be stated in dollars, etc.)	
Cont. from 021412				
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory			
✓	PTC			
✓	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters			5-5-11
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202			
	Order	X		
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			

Reviewed by: skc
Reviewed on: 3-15-12
Updates: 3-22-12
Recommendation:
File 18 - Larios